

LEGISLATIVE BILL 496

Approved by the Governor June 5, 1985

Introduced by Morehead, 30; Goll, 16; Marsh, 29; Lundy, 36; Hefner, 19; Rogers, 41; Smith, 33; Nichol, 48; Beyer, 3; Schmit, 23; Nelson, 35; Higgins, 9; Remmers, 1; Chronister, 18; Hoagland, 6

AN ACT relating to rules of the road; to amend sections 39-669.26 and 39-6,171, Reissue Revised Statutes of Nebraska, 1943; to require the use of safety belts as prescribed; to define a term; to change a provision relating to the point system; to correct internal references; to change equipment requirements; to change what constitutes a violation; to limit enforcement; to provide a penalty and exceptions; to provide for the use of certain evidence; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Any driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a safety belt, except that the number of front seat passengers required to wear a safety belt shall not exceed the number of safety belts which were installed in the front seat of such motor vehicle by the manufacturer. Any driver transporting a child who is four years of age or more but is less than sixteen years of age shall be responsible for securing such child in a safety belt if the child is riding in the front seat of the motor vehicle. All safety belts so worn shall be properly adjusted and fastened and shall (1) be of a type which meets the requirements of 49 C.F.R. section 571.208 as such regulation currently exists or as the regulation existed when the safety belts were originally installed by the manufacturer or (2) if the safety belts have been replaced, be of a type which meets the requirements of 49 C.F.R. section 571.208 that applied to the originally installed safety belts or of a more recently issued version of such regulation. Requirements for a child under the age of four are provided in sections 39-6,103.01 to 39-6,103.03.

As used in sections 1 and 4 to 7 of this act, motor vehicle shall mean a vehicle required by section 39-6,171 to be equipped with safety belts.

Sec. 2. That section 39-669.26, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:
39-669.26. In order to prevent and eliminate

successive traffic violations, there is hereby provided a point system dealing with traffic violations as disclosed by the files of the Director of Motor Vehicles. The following point system shall be adopted:

(1) Conviction of motor vehicle homicide -- 12 points;

(2) Third offense drunken driving in violation of any city or village ordinance or of section 39-669.07, as disclosed by the records of the director, regardless of whether the trial court found the same to be a third offense -- 12 points;

(3) Failure to stop and render aid as required under the laws of this state in the event of involvement in a motor vehicle accident resulting in the death or personal injury of another -- 6 points;

(4) Failure to stop and render aid as required under the laws of this state or any city or village ordinance in the event of a motor vehicle accident resulting in property damage if such accident is reported by the owner or operator within twelve hours from the time of the accident -- 4 points, otherwise -- 8 points, and for purposes of this subdivision a telephone call or other notification to the appropriate peace officers shall be deemed to be a report;

(5) Driving a motor vehicle while under the influence of alcoholic liquor or any drug or with ten-hundredths of one per cent or more by weight of alcohol in body fluids in violation of any city or village ordinance or of section 39-669.07 -- 6 points;

(6) Willful reckless driving in violation of any city or village ordinance or of section 39-669.03 or 39-669.05 -- 6 points;

(7) Careless driving in violation of any city or village ordinance or of section 39-669 -- 4 points;

(8) Negligent driving in violation of any city or village ordinance -- 3 points;

(9) Reckless driving in violation of any city or village ordinance or of section 39-669.01 -- 5 points;

(10) Speeding in violation of any city or village ordinance or of section 39-662, 39-663, or 39-666: (a) Not more than five miles per hour over the speed limit -- 1 point; (b) more than five miles per hour but not more than ten miles per hour over the speed limit -- 2 points; (c) more than ten miles per hour over the speed limit -- 3 points, except ; ~~PROVIDED~~, that (i) no points shall be assessed upon conviction of exceeding by not more than ten miles per hour the speed limit on any part of the National System of Interstate and Defense Highways; ~~AND PROVIDED FURTHER, that and (ii)~~ one point shall be assessed upon conviction of exceeding by not more than ten miles per hour, two points shall be assessed upon conviction of exceeding by more than ten miles per hour but not more than fifteen miles per hour, and three points shall be assessed

upon conviction of exceeding by more than fifteen miles per hour, the speed limits provided for in subdivision (2)(c) or (d) of section 39-662 or subdivision (1)(c), (d), or (e); ~~(2)(e); (d); or (e); or (4) or (3)(c) or (d) of section 39-666~~ except as provided in the first proviso in subdivision (i) of this subdivision;

(11) Failure to yield to a pedestrian not resulting in bodily injury to a pedestrian -- 2 points;

(12) Failure to yield to a pedestrian resulting in bodily injury to a pedestrian -- 4 points; and

(13) All other traffic violations involving the operation of motor vehicles by the operator, for which reports to the Department of Motor Vehicles are required under sections 39-669.22 and 39-669.23, not including violations for not wearing a safety belt as prescribed in section 1 of this act, parking violations, violations for operating a motor vehicle without a valid operator's license in the operator's possession, muffler violations, overwidth, overheight, or overlength violations, motorcycle protective headgear violations, or overloading of trucks -- 1 point.

All such points shall be assessed against the driving record of the operator as of the date of the violation for which conviction was had. Points may be reduced by the department under section 39-669.37.

In all cases, the forfeiture of bail, not vacated, shall be regarded as equivalent to the conviction of the offense with which the operator was charged.

Sec. 3. That section 39-6.171, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6.171. Every ~~new~~ motor vehicle designated by the manufacturer as ~~1964~~ 1973 year model or later, except ~~motor trucks motorcycles, mopeds, and buses, and taxicabs;~~ sold in this state and operated on any highway, road, or street in this state shall be equipped with two front seat safety belts of a type which ~~has been approved by the Department of Motor Vehicles~~ (1) meets the requirements of 49 C.F.R. section 571.208 as such regulation currently exists or as the regulation existed when the safety belts were originally installed by the manufacturer or (2) if the safety belts have been replaced, meets the requirements of 49 C.F.R. section 571.208 that applied to the originally installed safety belts or of a more recently issued version of such regulation. The purchaser of any such vehicle may designate the make or brand of or furnish such belts to be installed. Any person selling a motor vehicle in this state not in compliance with this section shall be guilty of a Class V misdemeanor.

Sec. 4. Enforcement of section 1 of this act by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation or some other offense.

Sec. 5. Any person who violates section 1 of this act shall be guilty of a traffic infraction as defined in section 39-602 and shall be fined twenty-five dollars, but no court costs shall be assessed against him or her nor shall any points be assessed against the driving record of such person.

Sec. 6. Section 1 of this act shall not apply to (1) a driver or passenger who possesses written verification from a physician that the driver or passenger is unable to wear a safety belt for medical reasons and (2) a rural letter carrier of the United States Postal Service while performing his or her duties as a rural letter carrier between the first and last delivery points.

Sec. 7. Evidence that a person was not wearing a seat belt at the time he or she was injured shall not be admissible in regard to the issue of liability or proximate cause, but may be admissible as evidence concerning mitigation of damages, except that it shall not reduce recovery for damages by more than five per cent.

Sec. 8. That original sections 39-669.26 and 39-6,171, Reissue Revised Statutes of Nebraska, 1943, are repealed.